

Washington County Land Use Authority Meeting
June 8, 2010
(Recording available)

The Washington County Land Use Authority Meeting was held on Tuesday, June 8, 2010, at the Washington County Administration Building, 197 E. Tabernacle, St. George, Utah. The meeting was convened at 1:30 p.m. by Chairman Stucki. Commissioners present: Debora Christopher, Doug Wilson, Kim Ford, Rick Jones, Julie Cropper, and Dave Everett. Also present: Deon Goheen, Planning & Zoning Administrator; Rachelle Ehlert, Deputy Attorney; Kurt Gardner, Building Official; Todd Edwards, Public Works Engineer; John Willie, Senior Planner; and Darby Klungervik, Planning Secretary.

Excused: Joann Balen

Audience attendance: Dominic Paonessa, Laura Paonessa, Beth Smith, Lily Bagnell, Gene L. Beck, Jodi Fuller, LaRae Fuller, Debbie Selvage, Dennis Selvage, Ron Lemmon

Chairman Stucki led the audience in the Pledge of Allegiance and explained meeting protocol.

Item #1. STAFF COMMENTS: Review staff comments for each item listed below. Staff initiated.

Item #2. DISCUSSION ITEM/GENERAL PLAN AMENDMENT Review Section I. Introduction to the General Plan and Section II. General Information regarding Public Lands in Washington County. County initiated.

The Planner said John Willie has been working on the General Plan for the past year and he is ready to start review of several sections in draft form. He has presented a short introduction of the Bureau of Land Management, National Forest, National Park, Institutional and Trust Lands Administration. The commission should be ready to make comments on what was presented.

John Willie, Senior Planner, clarified that this is an update to the General Plan not a new General Plan. He also explained that the county commission will decide if the General Plan will be used as a guideline or adopted as an ordinance. A guideline is discretionary and an ordinance is mandatory. The only problem with it being a guideline is a lot of cities and counties don't refer to it. When it is an ordinance it is more hard fast and nothing can be approved in conflict with the plan without the plan first being amended. Mr. Willie explained that the state recommends the General Plan be updated every five years. He reminded the commission of the importance of having the General Plan address public lands and said the section the county adopted in 2009 binds other public agencies to include the county when they are amending their plans.

The commission and staff had a short discussion on the Shivwits and the county is open to working with them, but has found in the past that they have little interest in being involved with the activities of the county.

The commission had no comments or proposed changes to Section I or II and will be addressing Sections III, IV and V at the next meeting.

Item #3. CONDITIONAL USE PERMIT EXTENSION Review extension on permission to construct and operate an asphalt plant, and reopen for temporary use during construction on I-15, within the I-1 zone, Section 1, T40-S, R13W, SLB&M, zone near Pintura. Sunroc/Russell Leslie or Gene Beck, applicant.

The Planner explained this will be the 3rd extension on the Conditional Use Permit for an asphalt plant on 31.5 acres near Pintura. This year's review will include the temporary asphalt plant being used for construction on Interstate 15, as they are utilizing the same temporary facility used previously. The County Commission approved the I-1 Zone change on the 6th of March and the CUP on March 27, 2007. Prior to receiving a building permit on the permanent facility, the Planning Commission will have to grant Site Plan Approval, and at that time, the Commission will need to review Title 10-12-5: Special Provisions, which may need to be considered with the Conditional Use Permit or Site Plan Approval. Access for haul trucks would be from the Browse Exit on I-15, with ingress and egress from an existing County Road and a private easement which was installed when the temporary plant operation was approved several years ago. The motion in 2007 was as follows: *"...to recommend approval of the Conditional Use Permit, for a period of one (1) year, subject to site plan approval. The one year will begin at the time of activation, with no activity allowed beforehand."*

Gene Beck, representative for Sunroc, said the reason it has taken so long is because they were trying to obtain their air quality approval from the state. They are doing everything they can to abide by the permits from the Department of Air Quality and the Department of Environmental Quality. They have been working to keep the dust down by having a water truck on site full time. The dust is monitored by the state; however they do allow a window of time during start up and shut down when the dust does not have to be monitored. He included that their air quality permit allows operation from 6 a.m.-10 p.m. and general maintenance can be done after hours as well as loading trucks. He mentioned they have had problems installing the permanent bridge and currently have a temporary bridge in place. They hope to have the permanent installed prior to next spring. He noted that the temporary bridge can far exceed any load they will be hauling and he included a brief description of the bridge. He informed the commission that that he is only aware of one complaint they received about two (2) years ago and it was pertaining to speeding trucks. He concluded saying construction is a loud, dusty process, but it is the price of progress. Sunroc uses the best management practices they can use to mitigate any problems and they do want to be good neighbors.

Dominic Paonessa, resident, explained he was speaking on behalf of his mother and grandparents. He said they understand construction must take place, but they do have some concerns that need to be addressed. He read an excerpt from the county code saying noise and dust pollution shall not negatively impact surrounding uses already in place at the time. Since 2008 there has been a huge amount of traffic through town, lights are on into the night, there is a constant beeping, the rock crusher is very loud and they would like to see less action at night. He said while they are barbecuing they can not even hear their music on the back porch and that is a negative impact on their way of life. He added some information on traffic safety guidelines and

included they should use the south entrance and not drive through town. Though they understood Sunroc is trying to do a job and they support them; these concerns do need to be addressed. He showed the location of their home on a map and it was determined that the berm that Sunroc built did not extend far enough to benefit this home.

Lilly Bagnell, resident of Pintura for thirty (30) years, brought pictures of the dust and explained the gravel pit is directly behind her home. Her chief complaints were the noise, dust and the lights. She noted the changes in Pintura and said this pit has depreciated their property value. Mrs. Bagnell was not upset with Sunroc, but she was upset with the commission for allowing this to take place in their community. In response to Commissioner Ford, she said she found out about this operation two (2) years ago and protested it at that time.

The chairman added unfortunately the best sites for this material are along I-15. He included the pictures do show some issues that do need to be addressed.

Gene Beck said he does realize the concerns of the residents; however this was an established gravel pit. The pictures were likely taken during start up or shut down when the dust is the worst. The wind generally blows north and south; therefore, the residents should never get any of the dust produced. It was determined by DAQ that because of the prevailing winds surrounding properties would not be affected. The dust is measured at the property line and their employees are certified to do a method nine reading. He added it is their intent to have this as a permanent facility and they are willing to work with the neighbors at mitigating their concerns.

The commission discussed the hours of operation with Sunroc and determined the asphalt plant needed to be permitted to operate 24 hours a day, due to the fact that Utah Department of Transportation contracts often require night paving. They addressed the dust and suggested it could be easily remedied by watering the roads. The commission discussed the berm and did not think it adequately mitigated the noise and lighting issues; however, since this is a temporary use, fencing would not be required at this time. The chairman said Sunroc needed to be more diligent in mitigating the residents concerns.

Facts/findings:

- We have had several residents of the community voice their concerns
- The dust control has been inadequate
- There is a problem with the noise, however there is no reasonable condition that can substantially mitigate the noise
- They have permits that allow them to operate 24 hours a day, seven days a week, but they will only run as needed by the conditions of their contracts
- Sunroc indicated they have enough water
- Exterior lighting is adequate, but it does disturb the neighbors
- Traffic safety conditions are not adversely affected by the use. The existence or need for dedicated turn lanes, pedestrian access, and capacity of the existing streets has been reviewed
- Utility capacity is adequate
- Emergency access is adequate
- The location and design of parking both on site and off street is adequate

- The use does not result in a situation which will create a need for essential services which cannot be reasonably met by local service providers, including roads and access for emergency vehicles and residents; fire protection; police protection; schools and school busing; drinkable water; sewer; storm drainage; and garbage removal

Motion was made by Commissioner Ford to recommend approval of the Conditional Use Permit Extension, to operate a temporary asphalt plant within the I-1 zone, based on the facts and findings and subject to the applicant mitigating the impact of the lighting on the residents, having no direct light on the residents, using adequate dust control and meeting the requirements of the permits from DEQ and DAQ. Commissioner Cropper seconded the motion, with all six (6) commissioners voting aye.

Item #4. CONDITIONAL USE PERMIT EXTENSION Review extension of a gravel crushing operation, within the OST-20 zone in the Pintura area of Washington County. Dana Truman or Gene Beck/Sunroc, applicant.

The planner noted the commission may recall there have been two 90-day reviews and this will be the 2nd annual extension for the gravel crushing operation. In 2008, the first contract with UDOT for improvements to Interstate 15 was fulfilled and now there is a second contract, so there will be a need to operate during the nighttime hours. There have been recent complaints from a resident in Pintura about the noise. This is the annual review for the crushing operation that County Commission approved within the OST-20 Zone. Access for haul trucks would be from the Browse Exit on I-15, with ingress and egress from an existing County Road and a private easement. The commission addressed the following issues as a part of their previous motion in 2007: *“... hours of operation from 4:00 a.m. to 10:00 p.m., noting that the applicant will work in concert with the adjoining I-1 zone for sanitary and waste disposal, and other support for employees. Also noting that if the crusher is moved from Phase 1 on the site plan to Phase 2, an additional Conditional Use Permit will be required, and that the property will be properly signed for safety with relationship to access, and that a stop sign will be installed as entering from the property to the frontage road.”*

Dominic Paonessa, resident, agreed he has seen more water trucks, but still thinks the hours need to be limited, as the crusher is very loud. He stated nine o'clock is unreasonable to be running a rock crusher in someone's back yard.

Mr. Beck informed the commission that their DAQ permit allows them to run 6 a.m.-10 p.m. and they intend to run those hours six days a week.

The commission did not want to set guidelines stricter than what their federal permits allow.

Facts/findings:

- We have had several residents of the community voice their concerns
- The dust control has been inadequate
- There is a problem with the noise, however there is no reasonable condition that can substantially mitigate the noise

- They have permits that allow them to operate from 6 a.m.-10 p.m.
- Sunroc indicated they have enough water
- Exterior lighting is adequate, but it does disturb the neighbors
- Traffic safety conditions are not adversely affected by the use. The existence or need for dedicated turn lanes, pedestrian access, and capacity of the existing streets has been reviewed
- Utility capacity is adequate
- Emergency access is adequate
- The location and design of parking both on site and off street is adequate
- The use does not result in a situation which will create a need for essential services which cannot be reasonably met by local service providers, including roads and access for emergency vehicles and residents; fire protection; police protection; schools and school busing; drinkable water; sewer; storm drainage; and garbage removal
- Road ingress and egress are sufficient to allow safe travel for vehicle and pedestrians surrounding the conditional use
- The hours of operation have been addressed and it was determined that there is no reasonable condition that can substantially mitigate the effect on residents

Motion was made by Commissioner Everett to recommend approval of the Conditional Use Permit Extension for a gravel crushing operation within the OST-20 zone, based on the facts and findings and subject to the applicant mitigating the impact of the lighting on the residents, having no direct light on the residents, using adequate dust control and meeting the requirements of the permits from DEQ and DAQ. Commissioner Christopher seconded the motion, with all six (6) commissioners voting aye.

Item #5. CONDITIONAL USE PERMIT EXTENSION Request permission for a racing event “15 Miler Turn-Around” for a 5k and 15 mile run on August 15, 2009, beginning at 7:00 a.m., generally located 1.5 miles north of Pine Valley on Grass Valley Road. Blue Duck Racing/Bob Hermandson, applicant.

No action

Item # 6. CONDITIONAL USE PERMIT EXTENSION Review request to construct a motocross and ATV track within the OST-20 zone, containing 20 acres, a portion of Section 15, T39S, R16W, SLB&M, generally located east of Hwy 18 on North Baker Lake Road and 300 East in Central. Robert and Mary Houston, applicants and Gary Simonson, agent.

No action

Item #7. CONDITIONAL USE PERMIT Request permission to utilize two (2) structures built within the C-2 zone on separate parcels as dual use property residential/commercial in a seasonal area of Kolob adjacent to Woodland Retreats Subdivision. Ron Lemmon, agent

The Planner said the owners of these two commercial parcels, with existing structures, have found it difficult to run a commercial venture seasonally and have residential use at another location. Their agent suggests that if the uses were combined, it would make it more feasible on

the short term basis. The Fuller unit was previously used as a cabin, Steak House, Bed & Breakfast, Store, and a Real Estate Office being converted back into a Store last year. The Selvage property was initially built as a Convenience Store approximately 10 years ago. This is within a C-2 Highway Commercial Zone, with the principal objective in establishing this zone is to provide an area where facilities that serve the traveling public can be most appropriately located. This will need to be reviewed as a use (residential) similar to the above and judged to be in harmony with the character and intent of C-2 zone. The C-3 zone allows for a caretakers dwelling, incidental to a commercial use. If approved, both buildings will have to be brought up to current building codes meeting handicapped requirements.

Ron Lemmon, agent for applicant, stated this is the only commercial property on Kolob and the residents find it nice having commercial property on the mountain. The only way it would be feasible for someone to run a commercial business there seasonally, is if they were able to live on site. It is a convenience for residents as well as a benefit to the landowners, if they choose to sell it.

The commission discussed having a caretaker, which is incidental to the primary use. The Planner noted caretakers are permitted in a C-3 zone and the commission would have to find that a caretaker is in harmony with the intent of the C-2 zone. The commission suggested allowing a caretaker to be permitted in the C-2 zone in seasonal areas including Kolob and Pine Valley. The commission expressed concern about the term "dual use" and did not want to see this property used as primarily residential. The commission prefers having the caretaker as a secondary use, only when the commercial use is present.

Commissioner Wilson read the following from the county code 10-10-4:

G. Residential Dwellings: No residential dwelling of any kind, except for "recreational vehicles", as defined in section 10-4-1 of this title, located in approved recreational vehicle parks, are permitted in any commercial zoning district.

Mr. Lemmon pointed out that the code is in conflict with the language in C-3.

The commission and staff decided that they needed to look at changing the county code to allow caretakers in a C-2 zone, as well as address 10-10-4 (G).

Rachelle Ehlert, Deputy Attorney, stated these items should be addressed at a work meeting after being properly advertised.

This item was withdrawn by the applicant in order to give the county time to address the conflicts in the county code.

Item #8. PUBLIC HEARING Open hearing for Washington County Land Use Authority on an amendment to the Conditional Use Chapter 18, which addresses posting a notice on Conditional Use applications as per the Washington County Land Use (Zoning) Ordinance. County initiated.

The Planner said the commission will need to open a public hearing as referenced by State Code, whereas amending Washington County Land Use Ordinance requires a minimum ten days published notice and 24 hour posting of agenda before other public meetings.

The Chairman opened a public hearing for comment on items 8, 10 and 12 simultaneously at 4:17 pm; with no one present to speak to any of the items, the public hearing was closed.

Item #9 ORDINANCE AMENDMENT Consider approval of changes to Title10, Chapter 18: Conditional Uses, Section 5: Development Plan: C. Meeting to be scheduled; Notice. County initiated.

The Planner said this ordinance amendment is in keeping with suggestions from the commission at our previous work meeting. There may need to be changes to the notification process in areas where certain types of conditional uses are requested to make the local citizens aware of what is coming to or being requested in the neighborhood, such as, cellular towers or other types of uses. It has been suggested by staff that the commission may want to consider listing types of uses “permitted” without notification. A packet will be provided to the applicant as to the standards & procedures of notification. This has been properly advertised for the hearing process and will go before the County Commission on June 15, 2010.

The commission decided it was important to keep this sign consistent and liked the idea of having staff provide the applicant with a template. The Planner brought in a sample of the sign requirements that would be provided and it was suggested to change “Posted Property” to “Public Notice.”

Motion was made by Commissioner Christopher to recommend approval of the ordinance amendment to Title 10, Chapter 18. Commissioner Everett seconded the motion, with all six (6) commissioners voting aye.

Item #10. PUBLIC HEARING Open hearing for Washington County Land Use Authority on an amendment to the Residential Estates Zone, which is a housekeeping item to the Washington County Land Use (Zoning) Ordinance. County initiated.

Item #11. ORDINANCE AMENDMENT Consider approval of changes to Title10, Chapter 8B: Residential Estates Zone, Section 10-8B-3.B.c: Conditional Uses: ten (10) day notice prior to hearing. County initiated.

The Planner noted this particular ordinance amendment is a “housekeeping” item in an effort to make the ordinance consistent with what is required in other chapters of the zoning ordinance and State Code. This change deletes the advertising process for Bed and Breakfast within the RE zones. This has been properly advertised for the hearing process and will go before the County Commission on June 15, 2010.

Motion was made by Commissioner Cropper to recommend approval of the ordinance amendment to Title 10, Chapter 8B. Commissioner Christopher seconded the motion, with all six (6) commissioners voting aye.

Item #12. PUBLIC HEARING Open hearing for Washington County Land Use Authority on an amendment to the Planned Development Zone, which will add cemeteries as a Conditional Use and renumber 11 of the following items in the Washington County Land Use (Zoning) Ordinance. County initiated.

Item #13. ORDINANCE AMENDMENT Consider approval of changes to Title 10, Chapter 9: PD Planned Development Zone, Section 10-9-6.C. Conditional Uses: 2: Cemeteries (Utah Code Title 08) and renumbering 2 thru 13. County initiated.

The Planner explained this amendment is in keeping with suggestions from the commission previously regarding cemeteries after reviewing a Conditional Use Permit at the November 10th, 2009 meeting for Mr. Staples. This change is as simple as listing cemeteries as a conditional use, referencing the State Code and renumbering following uses. This change will allow for Mr. Staples to return with an amended PD zone to facilitate the cemetery and changes he has already made in property lines. Cemeteries should be conditionally approved in the PD zone and this change to the zone will be in keeping with the mixed uses and sustainable communities. This has been properly advertised for the hearing process and will go before the County Commission on June 15, 2010.

Motion was made by Commissioner Everett to recommend approval of the ordinance amendment to Title 10, Chapter 9. Commissioner Christopher seconded the motion, with all six (6) commissioners voting aye.

Item # 14. MINUTES Consider approval of the minutes of the regular planning commission meetings held on May 25, 2010.

Motion was made by Commissioner Ford to approve the minutes from May 25, 2010. Commissioner Cropper seconded the motion, with all six (6) commissioners voting aye.

Item #15. COUNTY COMMISSION ACTION REVIEW Review of action taken by the County Commission on Planning Items. County initiated.

The Planner reviewed the action taken on Planning Items by the Washington County Commission on June 1, 2010, beginning at 4:00 p.m.: (a) Conditional use to hold the annual Founder's Day Celebration at Old Fort Harmony, approximately 3 miles east of New Harmony. L Karen Platt, applicant and said this item was approved based on the recommendations of the Planning Commission.

Item #16. COMMISSION & STAFF REPORTS: General reporting on various topics. County initiated.

Rachelle Ehlert, Deputy Attorney, suggested cleaning up conditional uses to have more uses listed as permitted or not permitted.

There being no further business at 4:30 p.m., Chairman Stucki adjourned the meeting.

Darby Klungervik, Planning Secretary